

PUBLIC HEARING--May 12, 1965

Appeals #8197 and #8198 Samuel G. Middleman and Stanton Gardens, Inc. appellants.  
The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and unanimously carried the following Order was entered on June 22, 1965:

ORDERED:

That the appeals for a variance from the FAR requirements of the R-5-A District to permit erection of apartment buildings with an FAR of 1.10; for a variance from the story limitation requirements of the R-5-A District, and to permit parking on a lot other than the lot on which the principal structures are located at Douglas Road, Stanton Road and Bryan Place, S.E., lots 832, 830, 834, 835, 838, 840, 841, 842, ~~84~~ 846, 858, 859, 864 and 865, square 5871, be granted.

From the records and the evidence adduced at the hearing, the Board finds the following facts:

(1) Appellant proposes to develop this property with three-story garden type apartments structures. In developing the site, however, the owner encountered difficulty because of the severe topographic conditions existing on the site. These conditions preclude the owner from constructing the buildings within the story limitations of the Zoning Regulations and due to substantial additional costs of constructing the building cannot economically develop the site with the .9 FAR for the R-5-A District.

(2) Adverse ownership within the squares requires the owner to establish some of the required open parking spaces on a lot other than the one on which the principal buildings will be located.

(3) Appellant contends that due to the topographic and resulting economic conditions the applicant suffers a hardship within the limitations of Section 8207.11 of the Zoning Regulations. Appellant states that the relief requested is the minimum relief necessary in order to permit development of the site.

(4) Exhibit #1 is a topographic survey of the appellant's property which indicates a severe grade condition which from the northernmost corner the grade is 120 feet and at the southernmost portion of the land the grade is approximately 180 feet or a differential of approximately 60 feet.

(5) Appellant states that because of the topographically difficult site some of the proposed structures will have four stories in order to accommodate them to the on-site grade. At the point of measurement these structures will be in compliance with the height limitations of the R-5-A District but will not comply with the three story limitation for that district.

(6) Exhibit #3 is a statement from the architect for the development which shows three site plans, one assuming the lot as level and not exceeding the FAR of 9; one on the existing slope also meeting the requirements of an FAR of .9; and one with an FAR of 1.10. He states that the plans drawn for Exhibit #3 will require substantial added construction costs due to topographic conditions.

(7) Exhibits #4, #5 and #6 are photographs of the surrounding property and of the subject site.

(8) Exhibit #7-A is a statement from the builder showing an additional construction cost. This indicates an additional cost of \$37,500 for additional masonry; footings which require at least 30% more concrete plus additional labor at \$50.00 per yard, or a total of \$6,500; site adjustment costs which includes back fill with cranes of gravel type material, plus additional steel reinforcing for concrete slabs to rest on this fill, plus additional damp proofing at 12,000 square feet at a 50¢ per square foot or a cost of \$6,000 and additional plumbing because of grades plus additional digging will run to an additional \$4,000, making a total cost in excess of \$54,000. The total additional cost results from the steepness of the grades.

(9) There was no objection to the granting of this appeal registered at the public hearing.

OPINION:

From the records and the evidence adduced at the hearing and after a careful study of the plans, elevations and other data furnished by appellant, we are of the opinion that appellant has proven a hardship within the provisions of Section 8207.11 of the Zoning Regulations to the extent that an FAR of 1.10 in lieu of the 0.9 FAR as provided in the Zoning Regulations, is justified due to increased cost of construction involved in the appeal due to the extreme topographic conditions existing on the land.

We are further of the opinion that the variance from the story limitations for the R-5-A District is also justified due to the topographic conditions existing on the property.

We are also of the opinion that due to adverse ownership, appellant's request to provide parking on a lot other than the lot upon which the main buildings are located, is also justified. In this connection it is our opinion that these parking spaces are so designed that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.

It is our opinion, in view of the above finding of fact and opinion, that this relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and maps.

This Order shall be subject to the following conditions:

(a) The parking spaces authorized under the terms of this Order are required parking spaces which will require the owner of the land upon which such parking is to be located to agree to become a party to a covenant with the District of Columbia to run with the land and to be binding upon him and his successors in title, which requires that the area approved for required off-street parking shall be reserved exclusively for that purpose so long as the improvements to be served exist or so long as said accessory off-street parking is required by the Zoning Regulations.

(b) All areas devoted to driveways, access lands, and parking areas shall be paved with materials which form an all-weather impervious surface.

(c) Any lighting used to illuminate the parking area shall be so arranged that all direct rays of such light are confined to the surface of the parking area.

Mr. Scrivener: I concur in the result but I wish to continue to record my disagreement with the method of computing the amount of relief. Mr. Hatton concurred with Mr. Scrivener.